

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 10:30 a.m. on February 20, 2001 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
 Dennis Hodgins, Legislative Research Department
 Theresa Kiernan, Office of the Revisor
 Nikki Kraus, Committee Secretary

Conferees appearing before the committee: Ron Hein, Kansas Restaurant and Hospitality Assoc.
 Tuck Duncan, Kansas Wine and Spirits Wholesalers Assoc.
 Philip Bradley, Kansas Licensed Beverage Assoc.

Others attending: See Attached List

Chairman Harrington opened the meeting by telling the committee that they had been provided with information which she had referenced the day before when Tracey Diel, Acting Director, KS Racing and Gaming Commission had spoken to the committee. (Attachment 1).

Senator Gooch then stated that he would like to introduce a bill so that chronically ill people would be able to get a release from prison based on the crime they committed so that some people would not have to die in prison.

Senator Brungardt asked if it was only for people who were chronically ill or terminally ill, and Senator Gooch said that it was for those who were going to die, just so that they would die outside of prison.

Senator Gooch made a motion to introduce the bill. Senator Gilstrap seconded that motion. The motion passed.

Having served as staff to the subcommittee, Russell Mills, Legislative Research Department, presented Senator Brungardt's subcommittee report on **SB 152—An act relating to the regulation of alcoholic beverages.** (Attachment 2).

Mr. Mills stated that there were three major points in the bill. He stated that the first point was that there were currently two statutes which prohibited providing alcoholic liquor or 3.2 percent beer to minors and the bill would combine the two into one crime of providing alcoholic liquor to a minor. He stated that this would simplify prosecution of violators. Mr. Mills stated that the second main point in the bill concerned the residency requirements for ABC employees. He stated that the bill changed the current law which required a certain number of years of Kansas residency to simply requiring residency to the United States and Kansas. He stated that the third main point referred to the requirements for renewal licenses concerning ineligible spouses. He stated that the conferees would go into greater detail on that point but that those three points were essentially the bill.

Senator Brungardt stated that in the subcommittee meeting, there were few concerns over the first two sections of the bill, but that the third part was the policy part of the bill. He stated that the ABC Director, Bob Longino, wanted to close a small loophole in the question of licensing certain people to sell alcoholic beverages. He stated that if someone was a felon, or had been involved in prostitution or gambling, anyone related to the individual, or his or her spouse, would not be allowed to get a license to sell alcohol, but could renew a license, and ABC wanted to close that window to felons whose spouses could renew under their name. He stated that there was a question as to whether or not one should be held responsible for his or her spouse.

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Senator Gooch stated that if a single person was planning to marry someone with a felony on their record, they would not be able to without losing their license.

Senator Barnett stated that he was interested if the fact that parents were allowed to buy or provide their children with alcohol would be a part of the discussion, and if not, then he would like to express that he felt that it ought to be discussed at a later time.

Chairman Harrington opened the hearing on:

SB 152—An act relating to the regulation of alcoholic beverages

Bob Longino, Acting Director, Kansas Department of Alcoholic Beverage Control, stated that there were a significant number of qualifications for obtaining a liquor license in Kansas and that the workers at ABC try very hard to uphold those requirements. He stated that originally the spouse had to meet all of the qualifications for licensure except for citizenship, residency, and age. After the original license, the licensee's spouse was not held to the same qualifications. He stated that the situation that Senator Gooch pointed out concerning marriage to a felon would not apply under current law, so there would not be a choice between marriage and the license.

Mr. Longino stated that the loophole was that if a licensee was charged but not yet convicted of a crime, they could surrender their license and the spouse could have the license renewed in his or her name and thereby keep it. Reading from a letter, Mr. Longino stated that a liquor store had been a front for a drug operation, but that by changing hands, it had been allowed to stay open despite drug charges against the licensee.

Mr. Longino stated that historically speaking, liquor has drawn bad elements. He stated that the legalization of alcohol in 1949 was an attempt to get rid of the criminals which had been so involved with it. He stated that in the past that ABC wants the spouse to meet the same requirements as the licensee in order to help keep out those same type of criminal elements. He stated that having a liquor license is a privilege, not a right. He stated that the qualifications were designed to keep out certain elements, and removing such requirements would harm the industry.

Ron Hein, Kansas Restaurant and Hospitality Association presented testimony in opposition to **SB 152**. (Attachment 3). He stated that his organization would like to amend the language to make it better.

Senator Gooch stated that he wanted to know how it would work in terms of responsibility with a partner or minority partner rather than a spouse. Mr. Hein responded that if they did not pay their taxes they might lose their license, but that basically the senior partner would have to buy out the junior or do something else to get them out of the business.

Senator O'Connor stated that a person should not be subject to the behavior of another person and that she was curious if there were laws to deal with a misbehaving spouse. Mr. Longino replied that he was not sure. Senator O'Connor stated that unless the spouse had been directly involved with the business and had done something wrong concerning it, then the licensee should not be held responsible and the spouse should just be excluded from the business if that were the case. Russell Mills stated that he did not know of any other industry which had a provision like this.

Senator Barnett stated that he would like an idea of the numbers of real-life cases or real-life circumstances in which there were business transfers. Mr. Hein replied that he did not know a number but he was sure that this sort of thing did happen. An enforcement officer for ABC stated that this has happened 20-25 times. He stated that the places that policemen have to deal with are places that law enforcement officers are at all the time and that, as a result, there is a concern with demeaning violations of the law because of this repetition.

Theresa Kiernen stated that spouses are often held responsible and that in the lottery law, for example, if you are married or in the same household of someone, it would affect your ability to play the lottery.

Mr. Hein stated that he wanted the committee to understand that his group was not supportive of anyone who

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does anything illegal or misleading, and that they did not support people who were licensed in name only but really had nothing to do with the business and were never there.

Tuck Duncan, Kansas Wine and Spirits Wholesalers Association, presented testimony in opposition to the bill. (Attachment 4). Mr. Duncan stated that he had been the Assistant Attorney General for Alcohol Beverage Control. He stated that in response to questions about keeping a spouse out of business, he stated that if anyone had committed a felony or had been convicted of a morals charge or a violation of a liquor control act, it was illegal to employ them in the business. He also stated that he was in favor of ABC's amendment.

After further discussion among committee members and conferees, Chairman Harrington stated that in situations in which parents buy alcohol for their teenagers, who then have parties, law enforcement had a very hard time trying to go after the parents.

Philip Bradley, Kansas Licensed Beverage Association, presented testimony in opposition to the bill. (Attachment 5).

Chairman Harrington stated that three amendments had been offered, so she wanted to reassign the bill to the subcommittee to rework and present to the committee at a later date.

Senators Brungardt and Vratil stated that they were both in favor of not allowing people who had committed crimes involving alcohol have licenses. Senator Barnett stated that the spouse was still a concern because alcohol is a regulated substance, more crimes are linked with it than other industries, and, as a result, there is more concern.

Chairman Harrington stated that over the weekend, there had been an article in the Emporia Gazette which quoted the Director of the Kansas Lottery, Ed Van Petten, talking about the shorter renewal term of the Kansas lottery, creating an additional 10-15 million dollar cost for the state. She stated that she had asked her secretary, Nikki Kraus, to try to visit with the lottery director. Chairman Harrington asked Ms. Kraus to state to the committee what the lottery director had said in her conversation with Mr. Van Petten.

Ms. Kraus stated that Mr. Van Petten said that he had stated to the committee that a shorter renewal time for the lottery might be more expensive. Ms. Kraus stated that she had no records of Mr. Van Petten telling the committee that a shorter extension would cost 10-15 million dollars more, nor did Chairman Harrington nor Senator Barnett have any recollection of any such statement. Ms. Kraus stated that Mr. Van Petten had said that he had not given that figure to the committee because he did not know that they would be proposing only a two-year renewal. Ms. Kraus stated that he had not explained why he had been represented in the article as having made such statements to the committee. Ms. Kraus stated that Mr. Van Petten was willing to come before the committee again to answer questions if necessary.

The meeting was adjourned at 11:50 a.m. The next meeting is scheduled for 10:30 a.m. on February 21, 2001.

ORION STABLES

Thoroughbred
Racing & Breeding

Kansas Racing and Gaming Commission
3400 SW Van Buren Street
Topeka, KS 66611-2228

Re: Orion Stables and Jim McCoy, and some other trainers have been denied stalls at the Woodlands upcoming 2000 Race Meet.

Orion Stables is a racing and breeding facility based out of Louisburg, Kansas. We have bred more horses here, and raced more horses at the Woodlands than any other ownership group in the state. It is hard then to believe that the best interest of racing here in Kansas is in not allowing us to race here in, our home state, Kansas.

Ourselves, and the other owners and trainers that Mr. Grace, owner of the Woodlands, wants to exclude from racing at his facility are Kansans. We all live, own property, have businesses, pay taxes and vote in Kansas. The money we make at our endeavors stays in Kansas.

Our assumption is that Kansas, as well as Kansans, should benefit at least some from racing at the Woodlands, but it doesn't look like it!

The people being excluded by Mr. Grace, are ones that he sees as opponents to gaming at the Woodlands. This is not the case. We favor gaming, but only oppose the split of revenues as he sees them.

Our view of the future of racing in Kansas is very dim indeed, and with the vindictive attitudes of the Woodlands management, there appears to no way of having a cohesive front for the future.

We ask that some action be taken against Mr. Grace.

Jim, John, Joe McCoy
Orion Stables

cc: Governor William Graves

Senate Fed + State
2-20-01
Attachment 1-1

STATE OF KANSAS



3400 SW Vail Buren St.
Topeka, Kansas 66611-2228
Phone (785) 296-5800
Fax (785) 296-0900

Home Page Address: <http://www.ink.org/public/krc>
E-mail Address: kracing@cjnetworks.com

KANSAS RACING AND GAMING COMMISSION

To August Masciotra:
General Manager
Woodlands Race Course

Re: Stable area violations:


Mr. Masciotra;

We have received an investigative report from Director of Security Robert Fritz concerning Jeff Rutland. This report states that Mr. Rutland was banned from the facility for failure to obey track rules and policies. This report never stated which rules and policies he failed to obey. We cannot respond to any rule or policy violations unless we know which rules and/or policies have been broken.

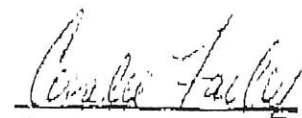
It has been brought to our attention that there are certain individuals that have been denied stalls for the 2000 Woodlands horse race meet. Mr. Rutland is apparently on this list. It has also been brought to our attention that in the October 6, 2000 commission meeting, and other meetings that followed on that same day that any individual that does not have stalls assigned will have to go into the receiving barn. It was also decided that these horse (s) were to be able to come in sixty (60) hours prior to the time in which they are scheduled to run. We have talked to Mr. Rutland and have informed him that he is able to haul in to the receiving barn sixty (60) hours prior to his running of his horses. We have also talked to Robert E. (Bud) Partridge concerning the running of horses that under his supervision. In the best interest of racing and as not to break the chain of custody on horses that are in his care, Mr. Partridge will run horses out of the stalls that were assigned to him, this includes all of the horses that he trains. The horse (s) that are owned by anyone on the apparent list of denied horses will adhere to the sixty (60) hour stipulation.

If you would like to discuss any concerns you might have on any of these subjects, please feel free to contact us.

Thank You,
Board of Stewards, Woodlands Race Course


Rol Shaal


Richard Bickel


Coralee Farley

Co: Tracy Diel
Frances Snell
Jerry Hathaway

STATE OF KANSAS



KANSAS RACING AND GAMING COMMISSION

3400 SW Van Buren St.
Topeka, Kansas 66611-2228
(913) 296-5800
FAX (913) 296-0900

OFFICIAL COMPLAINT FORM

Woodlands

(Track)

DATE: September 6, 2000

PERSON MAKING COMPLAINT: Jim McCoy/ Orion Stables

(Print Name)

Jim McCoy

(Signature)

ADDRESS: P. O. Box 17-1580, Kansas City, KS 66117

(Street/Box No.)

(City)

(State)

(Zip)

TELEPHONE: (913) 342-1653

COMPLAINT: I have been denied stalls at the Woodlands race meet.
Orion Stables has been racing since the Woodlands opened and is
one of the leading thoroughbred breeding and racing operations in
Kansas. This is strictly a political move and puts Kansas Breeding
and Racing programs at risk. The K.R.C. should intervene and stop
this action.

(Attach additional sheets, if necessary)

PERSON TAKING COMPLAINT _____

DATE RECEIVED _____

Complaints against any racing official must be submitted in writing, signed by the complainant and presented to the racing judges or stewards as appropriate to the racing facility. Any complaints against racing judges or stewards are to follow the same guidelines as above and be presented to the Kansas Racing and Gaming Commission.

STATE OF KANSAS



3400 SW Van Buren St.
Topeka, Kansas 66611-2228
Phone (785) 296-5800
Fax (785) 296-0900

Home Page Address: <http://www.ink.org/public/krc>
E-mail Address: kracing@cjnetworks.com

KANSAS RACING AND GAMING COMMISSION

September 15, 2000

Mr. Jim McCoy
P.O. Box 17-1580
Kansas City, Kansas 66117

Dear Mr. McCoy:

The staff of the Kansas Racing and Gaming Commission has reviewed your complaint and made inquiries regarding the factual statements made therein. I have reviewed the regulations and statutes and determined they do not convey to the KRGC the ability to intervene in this matter. I do not believe under the facts as they presently exist the KRGC has the jurisdiction to order the Woodlands to issue you stalls for your horses during the upcoming horse meet.

I have spoken to the Woodlands management and they have indicated that they have assigned all their stalls. They have indicated they could not assign stalls to everyone who applied and they had to make decisions on who would receive stall assignments. At this time, I have no reason to believe these statements are not true. In addition, the Woodlands management has indicated that they will not deny a horse, who meets the necessary qualifications, from entering a horse race being held at their facility. They have indicated that any horse who can enter a race will be allowed to run. If this circumstance were to change, then the KRGC would have the ability to intercede to permit qualified animals the ability to race. However, being able to race and being allowed to have a stall are two separate and distinct issues.

If you seek to run a horse who meets the race conditions and are denied this opportunity, then you should contact the KRGC.

Sincerely,

A handwritten signature in black ink, appearing to read "Tracy T. Diehl".

Tracy T. Diehl
Acting Executive Director

Date: August 28, 2000

Re: Denial of stalls to certain trainers for 2000 meet at The Woodlands

To this date, certain trainers (which are Kansas residents) have been verbally notified that they have been denied stalls for the upcoming horse meet at The Woodlands. Previous to this verbal notification, many of these trainers had been told directly by the Racing Secretary that stalls had been approved on the merit of their horses listed on the stall applications which were submitted by said trainers. The first 5 trainers who have been denied stalls account for over 100 horses they plan to race at The Woodlands, as they have for each of the past 10 years of racing. This comprises a sizeable portion of the 1200 stall barn area capacity. It is the contention of this letter that these trainers have unfairly been denied stalls, that should the horses trained by these trainers not race at The Woodlands it would create a hardship on Kansas owners and breeders of these horses which in turn would have a negative economic impact on the horse breeding industry and a negative indirect economic benefit to the surrounding areas in Kansas.

K.A.R. 112-5-1(d) states in part ... *An organization licensee or facility manager licensee shall not, either by contract or agreement, diminish the organization licensee's ultimate responsibility to conduct the races...* By not allowing certain horses that wish to race there, access to the grounds, would truly diminish the opportunity to conduct and offer to the public the best possible field of horses for each day's race card.

K.A.R. 112-5-2 states in part ... *The stewards may interpret any of these racing regulations, and the stewards may order any appropriate action not expressly authorized by these racing regulations in order to ensure a fair race and to protect the best interest of racing.* This regulation gives authority for the state to intervene and prevent a situation such as this, which would not be in the best interests of racing. It has not been demonstrated that these horses have been denied stalls on their merit, or lack of, or for any other undesirable reason that could affect the success of the race meet. The subject horses and trainers are currently racing in other states, stabling at these racetracks, without any negative effects to the best interest of racing.

K.S.S. 74-8813(f) requires that organization licensees are held accountable for ... *the economic impact for the respective horse or greyhound breeding industries in Kansas and the indirect economic benefit to the surrounding area...* If these trainers are not allowed to stable their horses at The Woodlands, it leaves little doubt of the economic outcome for them, their horses and the owners as well as the economic multiplier effect that each would touch.

K.S.S. 74-8813(i) and 74-8815(h) both state in part that ... *The commission may review a (specific) license more often than annually upon its own initiative or upon the request of any interested party.* This letter is presented as an official request for the commission to review certain actions, which have been referred to herein and hold both the organizational licensee and the facility owner licensee accountable.

In summary, these trainers and horses have not been denied stalls in the best interest of racing. They were named away as part of a political pay back from the owner of The Woodlands, nothing more. The Director of Racing at The Woodlands has been quoted as saying that there is a list of 21 names that Mr. Grace has ordered not to have stalls. It so happens that there are exactly 21 names listed in a press release in April of 2000 who opposed Mr. Grace's proposed slot legislation at racetracks. At time of this writing, many of these names are confirmed as being denied stalls. The discrimination that is going on is simply wrong, it has no merit that would enhance live racing in Kansas and it is being done in violation of the parimutual racing act and the rules and regulations set forth by the commission.

Enc: April press release

Kansas Racing and Gaming Commission

October 6, 2000

Minutes

CALL TO ORDER:
(I.)

Chair Olander called the October 6, 2000 commission meeting to order at 9:00 a.m., at the Kansas Racing and Gaming Commission office located at 3400 SW Van Buren, Topeka, Kansas. Commissioners Olander, Miller, Palmer, and Rathbun were present. Acting Executive Director Tracy Diel, Director of Racing Frances Snell, Assistant Attorneys General Jerry Hathaway and Debra Billingsley, Recording Secretary Nancy Wells, and other staff were also present.

MOTION, APPROVE
AMENDED AGENDA:
(II.)

Commissioner Miller (Rathbun) motioned to approve the amended agenda. Motion passed 4 - 0.

MOTION, APPROVE
CONSENT AGENDA:
(IV.)

Commissioner Palmer (Rathbun) motioned to approve the consent agenda as follows:

A. TRAK East/review and approve simulcast contracts

1. Kentucky Park, LLC, Kentucky Downs at Turfway Park, Kentucky, 9/16/00 to 9/26/00
2. Maywood Park Trotting Association, Inc., Maywood Park, Illinois, 9/18/00 to 12/30/00
3. Balmoral Racing Club, Inc., Balmoral, Illinois, 9/18/00 to 12/31/00
4. Keeneland Association, Inc., Keeneland, Kentucky, 10/7/00 to 10/28/00
5. Seminole Racing, Inc., Seminole Greyhound Park, Florida, 10/07/00 - Greyhound Night of Stars
6. Meadowlands Racetrack, Meadowlands Racetrack, New Jersey, 10/04/00 to 11/18/00
7. Oak Tree Racing Association, Santa Anita, California, 10/04/00 to 11/06/00
8. Hawthorne Race Course, Inc., Hawthorne, Illinois, 10/4/00 to 12/31/00
9. Interstate Greyhound Racing, Mile High Greyhound Park, CO, 10/7/00 to 2/3/01 (01/01/01 to 02/03/01 approval contingent upon approval of 2001 license and recognized group approval)

*Insert
see pages
6- thru 13
of Commission
Report
JMG*

- B. TRAK SE/review and approve simulcast contracts
 - 1. Meadowlands Racetrack, Meadowlands Racetrack, New Jersey, 9/20/00 to 11/18/00
 - 2. Hoosier Park, LP, Hoosier Park, Indiana, 9/15/00 to 12/04/00
 - 3. Los Angeles County Fair Association, Fairplex Park, California, 9/15/00 to 10/01/00
 - 4. Oak Tree Racing Association, Santa Anita, California, 10/04/00 to 11/06/00
 - 5. Keeneland Association, Inc., Keeneland, Kentucky, 10/07/00 to 10/28/00
- C. WGCI/review and approve simulcast contracts
 - 1. Seminole Racing, Inc. (incoming), Seminole Greyhound Park, Florida, 10/7/00 - Greyhound Night of Stars
 - 2. TR Racing, LLLP (incoming), Turf Paradise, Arizona, 9/30/00 to 5/22/01 (01/01/01 to 05/22/01 approval contingent upon approval of 2001 license and recognized group approval)
 - 3. Oak Tree Racing Association, Santa Anita, California, 10/04/00 to 11/06/00
 - 4. Keeneland Association, Inc., Keeneland Kentucky, 10/07/00 to 10/28/00
 - 5. Hawthorne Race Course, Inc., Hawthorne, Illinois, 10/4/00 to 12/31/00
 - 6. Wheeling Downs Racing Association, Inc. (incoming), Wheeling Downs, West Virginia, 10/06/00 to 12/31/00
 - 7. Wheeling Downs Racing Association, Inc. (outgoing), Wheeling Downs, West Virginia, 10/06/00 to 12/31/00
- D. WGCI/review and approve contract
 - 1. Office Depot, Inc., Salt Lake City, UT, office supplies
- E. WGPI/review and file contracts
 - 1. Thrash Floor Maintenance, Wichita, KS, amendment-clean and care of floors-due to live race schedule change and 1st floor being closed Wednesday and Thursday payments have changed
 - 2. Cable Rep of Kansas, Wichita, KS, vendor used for TV advertisements (response to vendor request)
 - 3. Net Systems, Wichita, Kansas, vendor used for troubleshooting network (response to vendor request)
 - 4. Perry's Lawn Service, Valley Center, KS, vendor used for monthly lawn service (response to vendor request)

COMMENTS,
RATHBUN:
(VIII.B.)

Commissioner Rathbun noted he is troubled by this because of the opinion of Dr. Peckham. Commissioner Rathbun noted that Dr. Peckham has no vested interest in the track and that his opinion on the performance of hauled-in horses shall be highly considered. Commissioner Rathbun noted that the commission's job is to protect the folks that are wagering.

COMMENTS, GRACE:
(VIII.B.)

Mr. Grace noted that he feels half of the people who have not been given stalls are trying to get the track closed. Mr. Grace noted that if they do not like the conditions, they should take their horses to other tracks to run like they have told him they will do.

COMMENTS, RODGERS:
(VIII.B.)

Mr. Rodgers noted that ninety percent of the horses that are hauled-in in the past never did go to the haul-in barn. Mr. Rodgers noted that on September 30, his mare was hauled-in and she was put in his trainer's (Bud Partridge) barn. After the mare was all settled in track management told Mr. Partridge that he had to move that horse to the haul-in barn because it was Bob Rodgers' horse. After moving the horse in the haul-in barn she got agitated and broke loose. Mr. Rodgers noted that this horse has had 15 lifetime starts and only one time prior to this had she finished worse than fourth. The horse finished way behind. Mr. Rodgers believes that the betting public did not have any idea what that mare had just been through. Mr. Rodgers feels there is no reason that a horse cannot be in their trainers' barn after they have drawn in for a race, not in the haul-in barn.

COMMENTS, GRACE:
(VIII.B.)

Mr. Grace noted that if the horse was not ready to run, it should have been pulled.

COMMENTS,
HATHAWAY:
(VIII.B.)

Mr. Hathaway noted that there is no regulation regarding stall allocation and it is entirely up to the commission as to what to do about this. The ultimate responsibility of racing at the Woodlands is TRAK East's. The day-to-day operations of racing are run by KRLLC.

COMMENTS, PALMER:
(VIII.B.)

Commissioner Palmer spoke regarding Mr. Grace's comment that the horsemen who are complaining should run somewhere else. Commissioner Palmer noted that many of their horses are Kansas bred

and need to run at the Woodlands to run for their money.

COMMENTS, RODGERS:
(VIII.B.) Mr. Rodgers noted that he has six head of horses of which four are paid up to run in a derby for which trials are set for next Wednesday. His horses are not at the track.

COMMENTS,
PALMER:
(VIII.B.) Commissioner Palmer noted that these horsemen did not know in advance they would not be allowed to stall their horses at the Woodlands. Commissioner Palmer also noted these horsemen are forced to run at a disadvantage and he does not believe it is in the best interest of racing or the betting public.

COMMENTS,
RATHBUN:
(VIII.B.) Commissioner Rathbun noted that there may be contractual obligations between the track and other horsemen and that the commission should not force the track to be exposed to liability.

COMMENTS, DENK:
(VIII.B.) The commission heard from Mr. Denk, legal counsel, TRAK East. Mr. Denk noted that TRAK East is not going to jeopardize their license over trivial or backbiting issues. Mr. Denk would like to meet with the commission to resolve some rules for next year's meet because this meet is nearly over.

COMMENTS,
HATHAWAY:
(VIII.B.) Mr. Hathaway noted it would be up to the board members of TRAK East that they could tell KRLLC how they want the races run.

COMMENTS,
OLANDER:
(VIII.B.) Chair Olander noted that TRAK East has to be given an opportunity to resolve the problem. If they do not then the commission's remedy is to proceed against the TRAK East license.

COMMENTS,
RATHBUN:
(VIII.B.) Commissioner Rathbun noted that a meeting may be the best way to handle the problem and that he expects the TRAK East board to handle the problem and get it resolved.

COMMENTS,
OLANDER:
(VIII.B.) Chair Olander noted he will be available to meet with Woodlands representative after lunch.

COMMENTS,
RODGERS:
(VIII.B.)

The commission heard from Mr. Rodgers who noted that an easy solution to the problem is to allow the people who have been denied stalls to use the stalls until the horsemen who have committed to the stalls show up. At that time the horsemen who are using the stalls will leave.

COMMENTS,
RUTLAND:
(VIII.B.)

The commission heard from Mr. Rutland who asked if he could be a part of the meeting. The commission noted it is the commission's job to represent the best interest of the racing industry at this meeting. Mr. Rutland asked that the issue of his ban from the Woodlands be taken up at the meeting also. Chair Olander noted that they will consider taking up Mr. Rutland's ban at the meeting.

STATUS REPORT,
TRAK SOUTHEAST:
(IX.A.)

The commission heard the TRAK Southeast status report from Mr. Mike Holton, General Manager, Camptown. Mr. Holton noted he is here to represent both TRAK Southeast and Camptown today. Mr. Holton noted that with the new schedule Camptown has increased to seventy races. Camptown has gotten another kennel and submitted another contract to the commission. They will have 13 kennels very shortly and they are running full eight-dog races.

MOTION, RATIFY
EXECUTIVE DIRECTOR
APPROVAL OF CAMPTOWN
POST TIME CHANGE:
(IX.B.,C.)

Commissioner Miller (Palmer) motioned to ratify the executive director approval of the TRAK Southeast request to change Wednesday and Saturday post times and the wagering format. Motion passed 4 - 0.

DISCUSSION, TRAK
SOUTHEAST PROPOSED
RACING DEPARTMENT
LABOR GUIDELINES:
(IX.D.)

The commission discussed the TRAK Southeast proposed racing department personnel labor guidelines as submitted by Mr. Keefer. Mr. Diel noted that staff will be looking at these changes to be sure that racing is not effected by these changes. Mr. Johnson inquired about security changes at Camptown. Mr. Holton noted that he believes there are some changes that could go into the security plan, and that he is ready to discuss it at any time.

STATUS REPORT,
CAMPTOWN:
(X.A.)

The commission heard the Camptown status report from Mr. Holton. Mr. Holton noted he has not received the financial statements for September from Diane Hill, but he believes it will be in the \$60,000 to \$70,000 loss range.

DISCUSSION, CAMPTOWN
MANAGER ON DUTY:
(X.B.)

The commission discussed with Mr. Diel the proposed manager on duty (MOD) list at Camptown for live racing as follows:

Penne Bringham, Mutuel Director/Executive
Director, TRAK Southeast
Rick Bogdanovich, Racing Director
Bud Edwards, Security Director

Mr. Holton responded to questions from Mr. Diel answering that the manager on duty could make immediate decisions with contact from Mr. Holton on major decisions. Mr. Holton responded that Penne Bringham would be the first person to act as MOD and that he feels that each of the three listed can act in that capacity.

MOTION, APPROVE
MANAGER ON DUTY
AT CAMPTOWN:
(X.B.)

Commissioner Rathbun (Palmer) motioned to approve the manager on duty list at Camptown as follows:

Penne Bringham, Mutuel Director/Executive
Director, TRAK Southeast
Rick Bogdanovich, Racing Director
Bud Edwards, Security Director

Motion passed 4 - 0.

DISCUSSION, RESULTS
RHG ELECTION:
(XI.A.)

The commission discussed the results of the recognized horsemen's group (RHG) election with Mr. Hathaway. Mr. Hathaway noted the following have been elected:

Charles Hunt
Robert E. (Bud) Partridge
Jeff Rutland
Lee Smith
Kelly Von Hammel

Chair Olander noted he had signed a certificate for each of the elected. The new group is official as of today's date.

PUBLIC COMMENTS,
SMART:
(XII.)

The commission heard public comments from Dr. Jim Smart, President, Kansas Greyhound Association. Dr. Smart noted that points are very low. They do need to have more kennels at Wichita. According to NGA studies it costs about \$25,000 to start a kennel at the track and kennels at Wichita are losing three to five thousand a month because of the value of points. Dr. Smart reported that the kennel owners need to be allowed to have two kennels or have more greyhounds in each kennel. Dr. Smart also gave praise to Randy Rathbun for speaking out during the commission meeting.

PUBLIC COMMENTS,
GARY SMITH:
(XII.)

Mr. Gary Smith, horse owner, noted that he hopes the meeting this afternoon will resolve something. The feeling among horse people at the Woodlands is fear. Many are afraid they will say the wrong thing and be ruled off the track. Mr. Smith reported on what haul-in barns are used for. If you have a trainer and he has no stalls, they have haul-in stalls available for those horses with no stalls. Mr. Smith also reported that usually if you have a trainer on the track and he has an extra stall, you bring your horse to that one. Mr. Smith noted that he has some friends with horses at Fairmont Park, Illinois, and that Fairmont Park is closed right now. These horse people had thought of bringing their horses to the Woodlands to race but that after hearing a little about what is happening at the Woodlands they decided not to bring their horses to the Woodlands. Mr. Smith noted the word is out and it is a deterrent to people bringing their horses to the Woodlands.

RECESS:

The commission recessed at 10:28 a.m.

RECONVENE:

The commission reconvened at 10:40 a.m. with all members and staff present as previously stated.

STAFF REPORT,
DIEL:
(XIII.A.)

The commission heard a staff report from Mr. Diel in which he requested approval for out of state travel for Dr. Palmer and Dr. Peckham to attend the American Association of Equine Practitioners convention in San Antonio, TX, November 26 to 28, 2000.

MOTION, APPROVE
OUT OF STATE
TRAVEL FOR PALMER
AND PECKHAM:
(XIII.A.)

Commissioner Rathbun (Miller) motioned to approve the out of state travel request for Dr. Palmer and Dr. Peckham to attend the American Association of Equine Practitioners convention in San Antonio, TX, November 26 to 28, 2000. Motion passed 4 - 0.

MOTION, APPROVE
WITHDRAWAL OF
BACKGROUNDS:
(XIII.B.)

Commissioner Miller (Rathbun) motioned to approve the request to withdraw the background investigations for the following:
a. Andrea Schuyler, clerk of scales, Camptown
b. Kevin Cox, backup starter, Camptown

Motion passed 4 - 0.

STAFF REPORT,
BOWEN:
(XIII.C.)

The commission heard a staff report from Ms. Bowen who reported on the 2000 International Simulcast Conference she attended, October 2 to 4, 2000 in Minneapolis, MN. Ms. Bowen reported that there were 350 to 400 people attending. They represented almost every track in the United States and Canada; tote; and other services relating to racing. One of the main topics was rebates - off-shore and US involvement in wagering hubs. It is estimated that \$60 million in handle went out of the state last year. The large scale bettors are moving from the tracks to off-shore because of rebates. There is a lot of concern about possible criminal activity. People that book bets get 10% back on wagers. The uniform simulcast contract was discussed. Also discussed was liability for foreign taxes. Economics of parimutuels was discussed also. Ms. Bowen noted that in addition to her from Kansas the Woodlands had a representative in attendance.

MOTION, RECESS INTO
EXECUTIVE SESSION:
(XIV.)

Commissioner Rathbun (Palmer) moved to adjourn into executive session at 10:48 a.m. for approximately 30 minutes for the purpose of receiving racing background reports. Those included in the session were the commission, Mr. Diel; Mr. Dave Johnson; Mr. Jon Godfrey, Enforcement Agent; Mr. Jim Root, Enforcement Agent; Mr. John Hinman, Enforcement Agent; Mr. Hathaway; and Ms. Billingsley. No action is

to be taken in executive session and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session the meeting is to be continued in open session. Motion passed 4 - 0.

RECONVENE:

The commission meeting reconvened at 11:06 a.m. with all members present as previously stated.

MOTION, APPROVE
BACKGROUND INVESTIGATION

REPORTS:
(XIV.)

Commissioner Miller (Rathbun) motioned to approve the background investigations for the following:

- A. Ryan Varsalona, backup mutuel manager, Camptown
- B. Fred McCormack, director of greyhound racing, Woodlands
- C. Derrick N. Reicheneker, racing judge, commission employee
- D. John Lopez, assistant/back-up mutuel manager, Woodlands
- E. Mary Jane Beeman, assistant director of food & beverage, Woodlands
- F. Christopher Dellesega, kennel master, Camptown

Motion passed 4 - 0.

MOTION, APPROVE
REICHENEKER AS
RACING JUDGE:
(XV.)

Commissioner Miller (Palmer) motioned to appoint Derrick Reicheneker as racing judge, commission employee. Motion passed 4 - 0.

MOTION, APPROVE
MCCORMACK AS
DIRECTOR OF
GREYHOUND RACING AT
THE WOODLANDS:
(XV.)

Commissioner Rathbun (Palmer) motioned to approve Fred McCormack as director of greyhound racing, Woodlands, subject to the approval of the racing judges at the Woodlands. Motion passed 4 - 0.

MOTION, RECESS INTO
EXECUTIVE SESSION:
(XVI.)

Commissioner Miller (Rathbun) moved to adjourn into executive session at 11:09 a.m. for approximately 25 minutes for the purpose of attorney/client privilege-matter for arbitration. Those included in the session were the commission, Mr. Diel, Mr. Hathaway, and Ms. Billingsley. No action is to be taken in executive session and the subjects discussed are

to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session the meeting is to be continued in open session. Motion passed 4 - 0.

RECONVENE:

The commission meeting reconvened at 11:18 a.m. with all members present as previously stated.


MOTION, ADJOURN:

Commissioner Palmer (Rathbun) motioned to adjourn at 11:18 a.m. Motion passed 4 - 0.

Submitted By:


Keith Palmer, D.V.M.
Secretary

Approved By:


Gene Olander
Chair

5. Valley Offset Printing, Inc., Valley Center, KS, company used for the Nevada simulcast printing (response to vendor request)
6. Westway Properties, Wichita, KS, 401K service fees (response to vendor request)
- F. KRLLC/review and file contracts
 1. Warwick Papers, Kansas City, KS, paper supplies (response to vendor request)
 2. Kansas City Custom Window Fashions, Shawnee, KS, drapery & rod (response to vendor request)
 3. Allur-Kansas City, Inc., Kansas City, MO, radio advertising (response to vendor request)
- G. SR Food and Beverage Co./review and file contracts
 1. GE Capital CPLC, Portland, OR, lease for food ordering system
 2. American Foodservice, Lee's Summit, MO, miscellaneous food products (response to vendor request)
 3. Excellent Foods, Kansas City, MO, miscellaneous meats (response to vendor request)
 4. Labor Pros, Kansas City, MO, part-time help (response to vendor request)
- H. WGP Concessions, Inc./review and file contracts
 1. Decker Electric, Wichita, KS, vendor used to repair kitchen equipment (response to vendor request)
- I. TRAK East/review and approve contracts
 1. Dr. James White, Leavenworth, Kansas, doctor during 2000 horse meet
 2. Metropolitan Ambulance Services, Kansas City, Missouri, ambulance services for horse meet

Motion passed 4 - 0.

STATUS REPORT,
WGCI:
(V.A.)

The commission heard the Wichita Greyhound Charities, Inc. (WGCI) status report from Mr. Ben Travis, Executive Director. Mr. Travis reported the WGCI grant ceremony will be held October 17, 2000 at the Wichita Marriott. Mr. Travis noted he hopes to see as many commissioners as possible at the ceremony. Chair Olander noted he will not be able to attend the ceremony due to a prior commitment. Mr. Travis requested that someone from the commission speak. Mr. Travis reported that the year to date live handle is down 25.2%; simulcast is up 5.1%; and the total handle is

down 9.8%. The current active list is at 397 which is slightly better than the last meeting.

DISCUSSION, POSSIBLE
AMENDMENT TO

K.A.R. 112-11-20:
(V.B.)

The commission discussed the WGCI request to amend K.A.R. 112-11-20 to allow 78 crates/ greyhounds in each kennel with Mr. Travis. Mr. Travis noted that the kennel owners are in favor of allowing more greyhounds in their kennels. Dr. Peckham noted that 78 crates increases the number of crates in each kennel by about 25% and this should be considered only as a last resort. Chair Olander requested consideration for an amendment to this regulation be placed on the October 27, 2000 commission meeting agenda.

DISCUSSION, REQUEST
TO ADD MATINEE ON

NOVEMBER 4, 2000:
(V.C.)

The commission discussed the WGCI request to add a matinee for Breeder's Cup day, November 4, 2000. Ms. Bowen noted staff recommends approval with the caveat that WGCI give notification in plenty of time to their network guest sites and receive response that the guest sites will or will not be receiving the signal.

MOTION, APPROVE WGCI
REQUEST TO ADD MATINEE ON

NOVEMBER 4, 2000:
(V.C.)

Commissioner Rathbun (Palmer) motioned to approve the WGCI request to add a matinee for Breeder's Cup day, November 4, 2000 with the caveat that WGCI give notification to their network guest sites and receive response that the guest sites will or will not be receiving the signal. Motion passed 4 - 0.

NO STATUS REPORT,

WGPI:
(VI.A.)

The commission heard from Mr. Travis that Mr. Kip Keefer, Executive Manager, Wichita Greyhound Park, Inc. (WGPI), had been at the commission meeting but had left for the Kansas City airport to catch a flight. Mr. Travis noted that if there are any questions from the commission, that he is available to answer them.

STATUS REPORT,

TRAK EAST:
(VII.A.)

The commission heard the TRAK East status report from Mr. Dan Denk, legal counsel.

DISCUSSION, TRAK
EAST REQUEST TO CHANGE
POST TIMES ON
WEDNESDAYS AND
WAGERING FORMAT:
(VII.B.,C.)

The commission discussed the TRAK East request to change post times on Wednesdays from October 25, 2000 to December 13, 2000, and run up to 20 races. Also included in the discussion was the request to change post times on Fridays, October 27, 2000 to December 15, 2000, and on November 24, 2000 and run up to 20 races. Dr. Peckham gave the animal health office concerns regarding the number of active greyhounds available for the requested races.

MOTION, APPROVE
TRAK EAST REQUEST TO
CHANGE POST TIMES AND
WAGERING FORMAT:
(VII.B.,C.)

Commissioner Miller (Rathbun) motioned to approve the TRAK East request to change post times on Wednesdays (October 25, 2000 to December 13, 2000) and Fridays (October 27, 2000 to December 15, 2000) and run up to 20 races subject to the approval of the KRGC Woodlands judges and veterinarians with the caveat that the Woodlands have a full compliment of kennels (17) or 550 active greyhounds and that any deviation from 20 races be approved by the KRGC Woodlands judges and veterinarians. Motion passed 4 - 0.

DISCUSSION, REQUEST
TO APPROVE WAGERING
FORMAT:
(VII.D.)

The commission discussed the TRAK East request to approve the wagering format for a 16-20 race card with Ms. Bowen who noted that staff recommends approval of the format submitted.

MOTION, APPROVE
WAGERING FORMAT:
(VII.D.)

Commissioner Rathbun (Palmer) motioned to approve the wagering format for a 16-20 race card as submitted. Motion passed 4 - 0.

DISCUSSION, REQUEST
TO APPROVE THE
LITTLE RHODY KENNEL
AND B & R KENNEL AT
THE WOODLANDS:
(VII.E.,F.)

The commission discussed the TRAK East request to approve Little Rhody Kennel and the B & R Kennel at the Woodlands. Mr. Diehl noted that the required contracts were not signed and finalized at this time.

MOTION, APPROVE THE
LITTLE RHODY KENNEL
AND B & R KENNEL AT
THE WOODLANDS:
(VII.E.,F.)

Commissioner Palmer (Rathbun) motioned to approve the Little Rhody Kennel and the B & R Kennel at the Woodlands subject to compliance with KRGC licensing requirements. Motion passed 4 - 0.

STATUS REPORT,
KRLLC:
(VIII.A.)

The commission heard the Kansas Racing, LLC status report from Mr. Allan Meyers. Mr. Meyers reported year to date the live greyhound handle is down .59%; greyhound attendance is up .06%; live horse handle is up 6.79%; horse attendance is up 1.43%; greyhound simulcasting is up 21.83%; and horse simulcasting is up 7.1%.

STATUS REPORT,
HORSE STALLS
FILLED AT THE
WOODLANDS:
(VIII.B.)

The commission heard from Mr. Diel a report on the number of horses and stalls filled at the Woodlands. Mr. Diel reported that as of Wednesday, October 4 there were 966 horses on the Woodlands grounds. Mr. Diel noted that the commission had received a complaint from a horseman that had been instructed by the Woodlands to have his horse off the track an hour to an hour and one-half after the horse had run. Staff is concerned that animal health and safety may be in jeopardy.

COMMENTS,
SECKINGTON:
(VIII.B.)

The commission heard comments from Mr. Larry Seckington, Secretary, KRLLC. Mr. Seckington reported that he became aware of the request to the horseman to have his horse off the track within one and one-half hours after the horse had raced just this morning. Mr. Seckington noted that he had spoken with Mr. Masciotra, Mr. Denk, and Dr. Peckham in the hallway outside the commission meeting room to discuss this. Mr. Seckington noted that the request to the horseman was to have the horse off the track one hour after the horse had cooled down. Mr. Seckington reported that the KRLLC will not get into a situation where they will have the slightest possibility of jeopardizing animal health. Mr. Seckington noted that he has confirmed with Dr. Peckham that KRLLC will not make the decision about when the animals cool down. Mr. Seckington reported that as of last night, October 5, there were 983 stalls filled.

KRLLC has committed, by application contract, with sufficient number of people that have not yet arrived and they will have stalls when they arrive.

Commissioners asked Mr. Seckington questions and the following are his responses.

COMMENTS,
SECKINGTON:
(VIII.B.)

Mr. Seckington reported the total number of stalls is 1200. Mr. Seckington could not confirm that the policy of having horses without stalls off the track within one hour after cool down was a new policy. Mr. Seckington noted it is his understanding that all persons with horses not having a stall allocated to them must leave the track within one hour after cool down.

COMMENTS, MEYERS:
(VIII.B.)

Mr. Allan Meyers noted that there are only so many stalls in the receiving barn where horses without stalls are located and that the traffic through there has to be kept moving. Mr. Meyers noted there are 12 stalls in the receiving barn.

COMMENTS,
SECKINGTON:
(VIII.B.)

Mr. Seckington suggested that several of KRGC staff and KRLLC staff meet to review the complaints that KRGC has received and see if they can be resolved.

COMMENTS, ASSMANN:
(VIII.B.)

The commission heard comments from Mr. David Assmann, RHG. Mr. Assmann requested information about horses that are hauled-in not being allowed to gallop the track.

COMMENTS,
SECKINGTON:
(VIII.B.)

Mr. Seckington noted that it is his information that horses can come on the track and gallop and be trained.

COMMENTS,
MASCIOTRA:
(VIII.B.)

Mr. Masciotra noted that Mr. McCoy's horses were there yesterday.

COMMENTS,
RUTLAND:
(VIII.B.)

The commission heard comments from Mr. Jeff Rutland, banned trainer. Mr. Rutland noted he believes the situation with the lack of stall availability and the request for horses to be off the track one hour after cool down is a result of payback or retaliation for a political controversy on actions taken in the spring. Mr. Rutland noted there are 30 to 40 stalls in

the haul-in barn and of that 15 appear to be occupied each day. Other people haul in to other trainer's stalls who have empty stalls. Mr. Rutland said it is a custom for horsemen to share an empty stall with someone hauling in to let that horse relax and perform better. The haul-in barn is next to the greyhound track and if a horse does haul-in the night before the lights and the sound of the greyhounds excite the horses and hauling into someone else's stalls is a convenience and better for the horses. Mr. Rutland was told the only time a horse could come on the grounds was when he was on an overnite. There are trainers at the track who have horses in their assigned barns and have haul-in horses who cannot stand in an empty stall in their barn. This leaves those horses unattended for a period of time.

X
COMMENTS, PECKHAM:
(VIII.B.)

Dr. Peckham responded to a question from Commissioner Rathbun about any advantages to a horse stalled at the track and one hauled in the night before. Dr. Peckham noted that a horse that is stabled on the grounds may be more content and run better than a horse that was hauled in from a distance the night before. If a horse has a bad trip it will not be as settled and relaxed as a horse that is stabled.

COMMENTS, SECKINGTON:
(VIII.B.)

Mr. Seckington responded to the inquiry of Commissioner Rathbun that all stalls will be occupied. Mr. Seckington noted that could not be done until after the track had contacted all the people that the track committed to, to get assurance that they will actually show up. That process can be started.

COMMENTS, RODGERS:
(VIII.B.)

Mr. Rodgers noted that the Prairie Meadows track has been closed since September 30 and entries were drawn for that September 26. Mr. Rodgers believes everyone who was going to arrive at the Woodlands after that meet had arrived and that there are still empty stalls.

X
COMMENTS, RATHBUN:
(VIII.B.)

Commissioner Rathbun noted that he has heard a lot of squabbling over the past few months that he has been on the commission, and believes that all should be concerned about the future of racing in Kansas. Commissioner Rathbun explained he is concerned that the point has been made but that when it affects the performance of a racing

animal that the wagering public should have a right to know.

- COMMENTS, OLANDER:
(VIII.B.) Chair Olander noted that the track does have the right to control their stalls, but when it interferes with the performance of a racing animal that becomes another matter. Chair believes the commission has an obligation to try to get to the bottom of the problem.
- COMMENTS,
SECKINGTON:
(VIII.B.) Mr. Seckington reiterated his suggestion for KRGK and KRLLC staffs to meet to discuss all of these issues.
- COMMENTS, DIEI:
(VIII.B.) The commission heard Mr. Diei note that it was said today that people were welcome to train on the track. Commission staff was told the haul-in horses were only allowed on the track on the day of the race the horse is in.
- COMMENTS,
MASCIOTRA:
(VIII.B.) The commission heard comments from Mr. Masciotra who wished to clarify comments from Mr. McCoy and others. Mr. Masciotra noted that there are many horses that haul-in, other than the ones that have been addressed, and that the veterinarians do a pre-race test on them to certify they are able to race. Commissioner Palmer noted that able to race is different than racing to form.
- COMMENTS, RUTLAND:
(VIII.B.) The commission heard again from Mr. Rutland who noted that Mr. Masciotra had just informed him that his horses are allowed to come on the racetrack and train, which before they were not. Mr. Rutland also noted that he is not allowed on the track to train.
- COMMENTS,
MASCIOTRA:
(VIII.B.) The commission heard from Mr. Masciotra that the reason Mr. Rutland is not allowed to come on the track is that he violated track rules and policy by sneaking horses in and using stalls that were allocated to someone else.
- COMMENTS,
SECKINGTON:
(VIII.B.) Mr. Seckington noted that management at the Woodlands had never indicated that Mr. Rutland's horses were ineligible to run.
- COMMENTS, GRACE:
(VIII.B.) Mr. Grace noted that he feels he has a bigger stake than most people when it comes to the best interests of horse racing in the state of

Kansas. Mr. Grace feels he is doing everything he can for the good of horse racing in Kansas. Mr. Grace noted that Ms. Snell has a letter from other horsemen who could not be here today and he requested she read that letter.

COMMENTS, SLOAN
(READ BY SNELL):
(VIII.B.)

Ms. Snell read out loud a letter from Ms. Meredith Sloan, Kansas Horsemen's Association, Kansas Thoroughbred Association. Ms. Sloan noted she is out of state and could not attend today's meeting but wanted the commission to know her comments. The letter was faxed to the commission this morning. Ms. Sloan noted she feels that Mr. Masciotra and Mr. Grace have gone out of their way to take care of the backside at the Woodlands.

COMMENTS, GRACE:
(VIII.B.)

Mr. Grace noted that KRLLC is trying to make the Woodlands a successful operation.

COMMENTS, MCCOY:
(VIII.B.)

Mr. McCoy noted that Ms. Sloan's letter is a personal letter, not a letter from either of the organizations she belongs to. Mr. McCoy noted that the stalls at the Woodlands will not get filled and that horsemen do not wait until the last of a meet to bring their horses to the track. Mr. McCoy also noted he does not understand how Mr. Rutland could be banned from a track for putting his horse in an empty stall when there are at least 250 empty stalls. Mr. McCoy reported that his brother had two horses on the track earlier in the week to train. He was told to get them off the track, they were not allowed to train. When Mr. McCoy's brother went to the racing office he could not get anyone to talk to him. He asked them to get the horses papers out (papers are kept in the racing office) when they did it was noted the horses were entered in some stakes races and they are Kansas-bred horses. He was still told to get his horses off the track. Mr. McCoy's brother was told to get his horses off the track and that management did not want them on the track training. Mr. McCoy left and told the officials in the racing office that he would bring back the horses at 8:00 a.m. with two lawyers from a very large firm. Mr. McCoy noted that it was a big disadvantage to not be able to train his horses on the track. Since his brother threatened a lawsuit, they do let horses on to train if they are in the stakes races and now they are letting them on the track to train for other races.

Mr. McCoy noted that someone else's horse got hurt when he was forced to take the horse out of someone else's stall. Mr. McCoy feels that the track is trying to manipulate the races. Commissioner Palmer inquired if Mr. McCoy had ever seen or heard of the policy that Mr. Rutland got banned for breaking. Mr. McCoy noted he had never had knowledge of that policy. Mr. Masciotra noted that the track is supplying a security officer at the haul-in barn to watch the haul-in horses when their trainers cannot be there.

COMMENTS,
HATHAWAY:
(VIII.B.)

Mr. Hathaway noted that the track's security plan states that it can ban employees who are causing disruptions or patrons who are causing disruptions. Mr. Hathaway does not know if they have other policies they have written.

COMMENTS,
RUTLAND:
(VIII.B.)

Mr. Rutland noted that he would like the commission to inform the betting public that some horses are hauled-in and that also Jeff Rutland cannot be with his horses because he is banned.

COMMENTS, RATHBUN:
(VIII.B.)

Commissioner Rathbun asked track management if they had tried to contact the horsemen that have committed for stalls that have not arrived yet to be sure they have not had a change of plans and that if it becomes apparent that someone is not going to use the stalls that are committed to them, would the horse people who have not been allowed stalls be able to use them?

COMMENTS,
SECKINGTON:
(VIII.B.)

Mr. Seckington replied that he could get staff to start contacting them now. Mr. Seckington informed the commission that the KRLLC board had not considered what to do with the stalls if the horsemen committed to them decided not to come to the Woodlands.

COMMENTS, GRACE:
(VIII.B.)

Mr. Grace continued with comments that there are always horses hauled in. At Remington Park right now there are empty stalls. Mr. Grace noted that all this is over is who it is. That is all it is all about. Mr. Grace said it is nothing new, it is nothing unique, it has nothing to do with horse racing.

PETE BRUNGARDT

SENATOR, 24TH DISTRICT
522 FAIRDALE RD.
SALINA, KS 67401

STATE CAPITOL, ROOM 462-E
TOPEKA, KANSAS 66612-1504
(785) 296-7390



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

VICE CHAIR: FEDERAL AND STATE AFFAIRS
MEMBER: COMMERCE
FINANCIAL INSTITUTIONS
AND INSURANCE
PUBLIC HEALTH AND WELFARE

February 20, 2001

To: Senate Committee on Federal and State Affairs

From: Senator Brungardt, Senator Lyon, and Senator Gooch

Re: SB 152, Concerning the Division of Alcoholic Beverage Control

Background. The Subcommittee on SB 152 held hearings on the bill on February 15, 2001, and received a briefing from staff and testimony from the Division of Alcoholic Beverage Control (ABC) and a number of representatives of the industry. The bill contains three major provisions.

1. Currently, furnishing alcoholic liquor and cereal malt beverages (CMB) to minors are criminal violations contained in two separate statutes. The bill combines these two violations into one statute in order to simplify the process of citing and prosecuting individuals who furnish either alcoholic liquor or CMB to minors. This change will mirror the provisions of KSA 41-727, which makes it unlawful for minors to purchase or consume both alcoholic liquor or CMB. (The existing exemption which allows a parent or guardian to furnish CMB to their child is retained in the new language.)
2. The second provision concerns the residency requirements for employees of the Division of Alcoholic Beverage Control. Current law requires that the Director must have resided in Kansas for five years and the Deputy Director for two years. The revised language states that the Director and all employees of the Division must be United States citizens and residents of Kansas.
3. The third provision concerns the requirements for a renewal license for a liquor or CMB licensee. Current law contains an exception that allows a liquor or CMB licensee to renew a license even though the person's spouse is ineligible for any reason other than citizenship, residence requirements, or age. The bill would eliminate this exception, and, thus, prevent an individual from obtaining or renewing a license if that individ-

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ual's spouse is ineligible to receive a license for any reason other than the three noted above.

Testimony. The Acting Director of ABC testified in support of SB 152. He also proposed several amendments to the third provision noted above, concerning renewal licenses. Most representatives of the industry supported the changes noted in items 1 and 2 above. One representative opposed combining the violations sections noted in item 1 into one statute. Nearly all of the industry representatives expressed opposition to the change proposed in item 3, which would delete an existing exception relating to renewal of liquor and CMB licensees.

Recommendations. The Subcommittee is generally supportive of the changes proposed by the Acting Director in SB 152. The Subcommittee supports combining the two violation statutes into one statute and revising the residency requirements for the Director and ABC employees. The Subcommittee also does support the proposed change in item 3 concerning the renewal requirements of a spouse. The full Committee may wish to address the policy question of spousal responsibility for licensure. The Subcommittee recommends that these proposed changes be approved and that the full Committee report SB 152 favorably.

HEIN AND WEIR, CHARTERED

Attorneys-at-Law

5845 S.W. 29th Street, Topeka, KS 66614-2462

Telephone: (785) 273-1441

Telefax: (785) 273-9243

Ronald R. Hein

Email: rhein@hwchtd.com

*Stephen P. Weir**

Email: sweir@hwchtd.com

*Admitted in Kansas & Texas

Testimony re: SB 152

Senate Federal and State Affairs Subcommittee on SB 152

Presented by Ronald R. Hein

on behalf of

Kansas Restaurant and Hospitality Association

February 15, 2001

Mr. Chairman, Members of the Sub-Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the trade association for restaurant, hotel, lodging and hospitality businesses in Kansas..

The KRHA supports SB 152 in part, but has objections to the provisions of Section 4 of the bill, specifically on page 7, lines 23-24. The amendment set out in Section 4 deletes the provision of current law that provides that the provisions of subsection b(10) shall not be applicable to renewal of a retailer's license. The deletion of this language would have the effect of making the retail licensee liable to having his/her license not be renewed because of actions of his/her spouse.

This amendment would be applicable whether or not the husband and wife were still on good terms, whether or not they were still living together and whether or not the spouse committing the wrongful act might even be doing so in order to injure the licensee spouse. It should be well accepted that individuals cannot necessarily control the action of a spouse, and to make the retail licensee responsible for such other person's actions is not only unfair, but seems to suggest that the spouse is acting as an agent for the licensee when performing an act that would render the license subject to non-renewal.

We have testified before this committee in the past when legislation has been suggested that retail licensees should be subject to the ramifications of the acts of others over whom the licensee has no control. This is, in our opinion, bad public policy, and will subject retailers to possibly losing their business and livelihood.

If Section 4 of the bill were stricken from the bill, the KRHA would support SB 152 in its entirety. In the absence of that, we must oppose SB 152 until it is so amended.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

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K · A · N · S · A · S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

To: Senate Committee on Federal and State Affairs

From: R.E. "Tuck" Duncan
Kansas Wine & Spirits Wholesalers Association

RE: SB 152

DATE: February 20, 2001

The Kansas Wine & Spirits Wholesalers Association has no objection to the sub-committee recommendations regarding combining the two statutes regarding furnishing beverage alcohol and cereal malt beverages to minors into one statute or to the elimination of the durational residency requirement for the director of the Alcoholic Beverage Control.

However, the KWSWA does oppose the elimination of the provision regarding the qualifications of a spouse at the time a license is renewed. The sub-committee decided that this issue should be the subject of discussion for the full committee.

Prior to the sub-committee meeting we met with the Director to look at alternative language to met the objective of the agency's concern. We prefer the alternative language.

There are three options:

- Make no change.
- Adopt the amendment being suggested by the Agency.
- Or, eliminate provisions regarding spouses altogether.

The current language was adopted by the Legislature after concerns were expressed by licensees that their business investment should not be subject to the acts of third parties over which they have no control. The Legislature concurred.

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To my knowledge this provision has not caused any significant problems for the agency. However, apparently there have been a few isolated examples of abuse within the last year. Thus the amendment would address the narrow concern without undermining the current law.

The question was raised at the sub-committee as to the constitutional basis for such laws when each spouse is recognized as an independent person. We have not had the opportunity to explore this issue nor to search other states for their laws.

Thank you for your attention to this matter.



Kansas Licensed Beverage Association
17 East Eighth Street Lawrence, Kansas 66044
Voice 785.331.4282 Fax 785.842.1679 Cell 785.766.7492
www.klba.org phil@klba.org

To: Senate Federal and State Affairs Committee

From: Philip Bradley on behalf of KLBA (Kansas Licensed Beverage Assn.)

Date: February 20, 2001

RE: Testimony on SB-152

Madam Chair and Senators of the Committee,

Thank you for allowing me to appear today. I am Philip Bradley, Director of Public Affairs for the KLBA, Kansas Licensed Beverage Assn. We are a group of small business owners who formed to educate the public and ourselves about our industry. We are in the hospitality business. Our customers come to us for service and fun. As a part of this service we offer alcoholic beverages. We advocate safe responsible consumption and are training our servers to practice these principals.

We work with the ABC to educate, train and promote compliance and responsible practices. We are one of only three server-training programs certified by the ABC in Kansas.

We represent the interests of over 3000 businesses, the men and women who as a part of their business hold a license for on premise alcohol service. We are the restaurants, hotels, clubs, bars, and caterers you frequent and enjoy.

The KLBA is in support of portions of SB-152. We feel that this revision has three parts and we will address each individually.

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First, the portion that combines the two strengths of beers appears unnecessary to us, as there are already two remedies for the situation that allows for the dismissal of charges. The citing officer may write 2 citations if he is uncertain which strength beer is present. The unneeded citation is then discarded or the local prosecutor may re-file immediately and continue the case.

Second, the residency revision for the employees of the ABC we support.

Third, the elimination of the spouse exemption on renewals is very troubling. We oppose this change. We understand the situation that the agency has faced that prompted them to propose this radical remedy, but feel that there are already methods for addressing these. We feel his change would be "overkill" to stop a very infrequent problem, and inadvertently create a larger potential problem. It would make the licensee responsible for another's behavior and decisions. It would cause a licensee to choose between marriage and their business. It would necessitate a licensee to do a background check if he wished to marry, on his future bride. It would create a vehicle for revenge in marriage disputes. And we would question the constitutionality of this entire concept. We realize that the agents are just trying to enforce the intent of this clause, however perhaps the whole idea is outdated and unnecessary.

Finally we would ask you to attach, as an amendment, an act that will allow for excise tax bond relief. Every Licensee when they apply for said license must post a bond or cash that is to guarantee their payment of the drink excise tax. If they succeed and their business grows then it is increased. If they don't then it stays the same. No other small business has to post a bond to assure that they will pay their taxes. This seems to assume that we are untrustworthy. Nevertheless we know that we are in an unusual industry and agree to the posting of the bond until we earn your trust. This amendment would allow for relief, at the discretion of the Director. To eliminate any extra manpower needed to research these requests, it would be a part of the renewal process, a check box if you will, to request that your refund of bond be considered. If we have paid, on time and have no other problems he would be able to grant such a relief, knowing that it could be reinstated at any time if need be.

We have proposed this bill last year but were to late to complete the process. However, The hearings last year provided two objections that have been corrected this year.

We have discussed this with the ABC, and although the Director wants to read final language, he has no objection to the concept. We are discussing the details of implementation.

Again thank you!